

**Appendix B**  
**to**  
**Joint Proposed Jury Instructions**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

AMDOCS (ISRAEL) LIMITED, an Israeli Corporation,

Plaintiff,

v.

OPENET TELECOM, INC., a Delaware Corporation, and OPENET TELECOM LTD., an Irish Corporation,

Defendants.

Case No. 1:10-cv-910 (LMB/TRJ)

**JURY TRIAL DEMANDED**

**DEFENDANTS' PROPOSED VERDICT FORM**

Defendants Openet Telecom, Inc. and Openet Telecom Ltd. (collectively "Openet") respectfully submit the following proposed verdict form. Openet's proposal of verdict questions herein is without waiver to Openet's pending motions, which – if granted – would render all or some of these questions moot. Openet reserves the right to amend, supplement or modify this verdict form as the case proceeds toward trial and as the parties continue to meet and confer, and further based on the evidence actually presented at trial. Moreover, Openet objects to Amdocs' proposed verdict form and reserves all rights to present more detailed factual and legal bases for these objections at a later time.

In answering these questions, you are to follow all of the instructions I have given you in the Charge of Court.

## I. PATENT INFRINGEMENT

1. For the '797 Patent:

(a) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 1 of the '797 Patent?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Claim  
is directly infringed)      (For Openet: Claim is  
not directly infringed)

(b) **(If you answered "NO" to Question 1(a) above, skip to Question 1(c).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 2 of the '797 Patent?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Claim  
is directly infringed)      (For Openet: Claim is  
not directly infringed)

(c) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 7 of the '797 Patent?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Claim  
is directly infringed)      (For Openet: Claim is  
not directly infringed)

(d) **(If you answered "NO" to Question 1(c) above, skip to Question 1(e).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 8 of the '797 Patent?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Claim  
is directly infringed)      (For Openet: Claim is  
not directly infringed)

(e) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 19 of the '797 Patent?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Claim  
is directly infringed)      (For Openet: Claim is  
not directly infringed)

2. For the '984 Patent:

(a) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 1 of the '984 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed)

(For Openet: Claim is  
not directly infringed)

(b) **(If you answered "NO" to Question 2(a) above, skip to Question 2(e).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 2 of the '984 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed)

(For Openet: Claim is  
not directly infringed)

(c) **(If you answered "NO" to Question 2(a) above, skip to Question 2(e).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 6 of the '984 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed)

(For Openet: Claim is  
not directly infringed)

(d) **(If you answered "NO" to Question 2(a) above, skip to Question 2(e).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 8 of the '984 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed)

(For Openet: Claim is  
not directly infringed)

(e) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 13 of the '984 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed)

(For Openet: Claim is  
not directly infringed)

3. For the '510 Patent:

(a) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 16 of the '510 Patent?

**ANSWER: Circle**

**"YES"**

**or**

**"NO"**

(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(b) **(If you answered “NO” to Question 3(a) above, skip to Question 4.)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 17 of the ‘510 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(c) **(If you answered “NO” to Question 3(a) above, skip to Question 4.)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 19 of the ‘510 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

4. For the ‘065 Patent:

(a) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 1 of the ‘065 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(b) **(If you answered “NO” to Question 4(a) above, skip to Question 4(c).)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 4 of the ‘065 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(c) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 7 of the ‘065 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(d) Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 13 of the ‘065 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**

(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

(e) **(If you answered “NO” to Question 4(d) above, skip to Question 5)** Did Amdocs prove by a preponderance of the evidence that Openet directly infringed Claim 17 of the ‘065 Patent?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Claim  
is directly infringed) (For Openet: Claim is  
not directly infringed)

**If you did not find infringement of any claim in Questions 1-4, skip to Question 9.**  
**Otherwise, proceed to Question 5.**

5. **(If you did not find infringement of any claim in Question 1, skip to Question 6.)**

For the ‘797 Patent:

(a) Did Amdocs prove by clear and convincing evidence that Openet’s infringement *prior to* August 16, 2010, when Amdocs sued Openet on the ‘797 Patent, was willful?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Patent  
was willfully  
infringed) (For Openet: No  
willful infringement)

(b) Did Amdocs prove by clear and convincing evidence that Openet’s infringement *after* August 16, 2010, when Amdocs sued Openet on the ‘797 Patent, was willful?<sup>1</sup>

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Patent  
was willfully  
infringed) (For Openet: No  
willful infringement)

6. **(If you did not find infringement of any claim in Question 2, skip to Question 7.)**

For the ‘984 Patent:

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<sup>1</sup> Openet has a pending motion *in limine* on willfulness and objects to instructing the jury on this issue.

(a) Did Amdocs prove by clear and convincing evidence that Openet's infringement *prior to* January 18, 2011, when Amdocs sought to sue Openet on the '984 Patent, was willful?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

(b) Did Amdocs prove by clear and convincing evidence that Openet's infringement *after* January 18, 2011, when Amdocs sought to sue Openet on the '984 Patent, was willful?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

7. **(If you did not find infringement of any claim in Question 3, skip to Question 8.)**

For the '510 Patent:

(a) Did Amdocs prove by clear and convincing evidence that Openet's infringement *prior to* January 18, 2011, when Amdocs sought to sue Openet on the '510 Patent, was willful?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

(b) Did Amdocs prove by clear and convincing evidence that Openet's infringement *after* January 18, 2011, when Amdocs sought to sue Openet on the '510 Patent, was willful?

**ANSWER: Circle**      **"YES"**      **or**      **"NO"**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

8. **(If you did not find infringement of any claim in Question 4, skip to Question 9.)**

For the '065 Patent:

(a) Did Amdocs prove by clear and convincing evidence that Openet's infringement *prior to* August 16, 2010, when Amdocs sued Openet on the '065 Patent, was willful?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

(b) Did Amdocs prove by clear and convincing evidence that Openet’s infringement *after* August 16, 2010, when Amdocs sued Openet on the ‘065 Patent, was willful?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Amdocs: Patent  
was willfully  
infringed)      (For Openet: No  
willful infringement)

## II. PATENT VALIDITY

### ANTICIPATION

9. For the '797 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as anticipated by a single piece of prior art?<sup>2</sup>

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'797 Patent</b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
9(a): <i>Claim 1</i>		
9(b): <i>Claim 2</i>		
9(c): <i>Claim 7</i>		
9(d): <i>Claim 8</i>		
9(e): <i>Claim 19</i>		

10. For the '984 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as anticipated by a single piece of prior art?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'984 Patent</b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
10(a): <i>Claim 1</i>		
10(b): <i>Claim 2</i>		
10(c): <i>Claim 6</i>		
10(d): <i>Claim 8</i>		
10(e): <i>Claim 13</i>		

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<sup>2</sup> To the extent that Openet's invalidity defense is based on references not considered by the PTO, Openet's burden to persuade you of its invalidity defense by clear and convincing evidence may be easier to sustain. *See Microsoft Corp. v. i4i Ltd., P'ship*, Slip. Op. No. 10-290 (June 9, 2011).

11. For the '510 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as anticipated by a single piece of prior art?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b><u>'510 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
11(a): <i>Claim 16</i>		
11(b): <i>Claim 17</i>		
11(c): <i>Claim 19</i>		

12. For the '065 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as anticipated by a single piece of prior art?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b><u>'065 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
12(a): <i>Claim 1</i>		
12(b): <i>Claim 4</i>		
12(c): <i>Claim 7</i>		
12(d): <i>Claim 13</i>		
12(e): <i>Claim 17</i>		

## **OBVIOUSNESS**

13. For the '797 Patent, did Openet prove by clear and convincing evidence that any of the claims are invalid as obvious in view of the prior art?<sup>3</sup>

<b>Put an “X” in the “YES” column or the “NO” column for each asserted claim</b>		
<b><u>'797 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
13(a): <i>Claim 1</i>		
13(b): <i>Claim 2</i>		
13(c): <i>Claim 7</i>		
13(d): <i>Claim 8</i>		
13(e): <i>Claim 19</i>		

14. For the '984 Patent, did Openet prove by clear and convincing evidence that any of the claims are invalid as obvious in view of the prior art?

<b>Put an “X” in the “YES” column or the “NO” column for each asserted claim</b>		
<b><u>'984 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
14(a): <i>Claim 1</i>		
14(b): <i>Claim 2</i>		
14(c): <i>Claim 6</i>		
14(d): <i>Claim 8</i>		
14(e): <i>Claim 13</i>		

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<sup>3</sup> To the extent that Openet’s invalidity defense is based on references not considered by the PTO, Openet’s burden to persuade you of its invalidity defense by clear and convincing evidence may be easier to sustain. *See Microsoft Corp. v. i4i Ltd., P’ship*, Slip. Op. No. 10-290 (June 9, 2011).

15. For the '510 Patent, did Openet prove by clear and convincing evidence that any of the claims are invalid as obvious in view of the prior art?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'510 Patent</b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
15(a): <i>Claim 16</i>		
15(b): <i>Claim 17</i>		
15(c): <i>Claim 19</i>		

16. For the '065 Patent, did Openet prove by clear and convincing evidence that any of the claims are invalid as obvious in view of the prior art?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'065 Patent</b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
16(a): <i>Claim 1</i>		
16(b): <i>Claim 4</i>		
16(c): <i>Claim 7</i>		
16(d): <i>Claim 13</i>		
16(e): <i>Claim 17</i>		

17. Did you rely on any prior art that was not examined by the Patent and Trademark Office ("PTO") during prosecution in making your validity determination?

**ANSWER: Circle                    "YES"                    or                    "NO"**

### **INDEFINITENESS**

18. For the '797 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as indefinite?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
	For Openet	For Amdocs

	NO (Claim is invalid)	YES (Claim is not invalid)
19(a): <i>Claim 1</i>		
19(b): <i>Claim 7</i>		
19(c): <i>Claim 19</i>		

19. For the '984 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as indefinite?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'984 Patent</b>	For Openet	For Amdocs
	NO (Claim is invalid)	YES (Claim is not invalid)
20(a): <i>Claim 1</i>		
20(b): <i>Claim 13</i>		

20. For the '510 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as indefinite?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'510 Patent</b>	For Openet	For Amdocs
	NO (Claim is invalid)	YES (Claim is not invalid)
21(a): <i>Claim 16</i>		

21. For the '065 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as indefinite?

<b>Put an "X" in the "YES" column or the "NO" column for each asserted claim</b>		
<b>'065 Patent</b>	For Openet	For Amdocs
	NO (Claim is invalid)	YES (Claim is not invalid)
22(a): <i>Claim 1</i>		

<b>Put an “X” in the “YES” column or the “NO” column for each asserted claim</b>		
<b><u>’065 Patent</u></b>	For Openet	For Amdocs
	NO (Claim is invalid)	YES (Claim is not invalid)
22(b): <i>Claim 7</i>		

### **WRITTEN DESCRIPTION**

22. For the ‘797 Patent, did Openet prove by clear and convincing evidence that any of the following claims are invalid as lacking written description?

<b>Put an “X” in the “YES” column or the “NO” column for each asserted claim</b>		
<b><u>’797 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
23(a): <i>Claim 1</i>		
23(b): <i>Claim 7</i>		
23(c): <i>Claim 19</i>		

### **UNPATENTABLE SUBJECT MATTER**

23. Did Openet prove by clear and convincing evidence that any of the following claims are invalid as being directed to unpatentable subject matter?

<b>Put an “X” in the “YES” column or the “NO” column for each asserted claim</b>		
<b><u>’797 Patent</u></b>	For Openet	For Amdocs
	YES (Claim is invalid)	NO (Claim is not invalid)
24(a): <i>Claim 7</i>		
24(b): <i>Claim 8</i>		
<b><u>’984 Patent</u></b>		
24(c): <i>Claim 13</i>		
<b><u>’510 Patent</u></b>		
24(d): <i>Claim 16</i>		

24(e): <i>Claim 17</i>		
24(f): <i>Claim 19</i>		
<b><u>‘065 Patent</u></b>		
24(g): <i>Claim 1</i>		
24(h): <i>Claim 7</i>		
24(i): <i>Claim 13</i>		

### **III. UNENFORCEABILITY**

## **LACHES AND EQUITABLE ESTOPPEL**

24. Did Openet prove by a preponderance of the evidence that:<sup>4</sup>

(a) Amdocs delayed filing suit for an unreasonably long and inexcusable period of time from the time it knew or reasonably should have known of its claim for infringement against Openet (or its predecessors)?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Openet)      (For Amdocs)

(b) The delay caused material prejudice or injury to Openet?

25. Did Openet prove by a preponderance of the evidence that:

(a) Amdocs engaged in misleading conduct toward Openet, including actions, inaction, statements, and silence, that led Openet to reasonably infer that Amdocs would not assert rights in the patents-in-suit against Openet (or its predecessors)?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Openet)      (For Amdocs)

(b) Openet relied on Amdocs' misleading conduct?

**ANSWER: Circle**      **“YES”**      **or**      **“NO”**  
(For Openet)      (For Amdocs)

<sup>4</sup> From the Federal Circuit Bar Association, Model Jury Instructions, Instruction B.5.2 (February 2010).



**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

28. For the ‘510 Patent, did Openet prove by clear and convincing evidence that:

(a) Amdocs withheld information from the United States Patent and Trademark Office during the examination of the ‘510 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

(b) the information withheld from the United States Patent and Trademark Office was material to the examination of the ‘510 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

(c) Amdocs withheld the information from the United States Patent and Trademark Office with the intent to deceive the Office into issuing the ‘510 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

29. For the ‘065 Patent, did Openet prove by clear and convincing evidence that:

(a) Amdocs withheld information from the United States Patent and Trademark Office during the examination of the ‘065 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

(b) the information withheld from the United States Patent and Trademark Office was material to the examination of the ‘065 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

(c) Amdocs withheld the information from the United States Patent and Trademark Office with the intent to deceive the Office into issuing the ‘065 Patent?

**ANSWER: Circle**

**“YES”**  
(For Openet)

**or**

**“NO”**  
(For Amdocs)

**If you did not find that Openet infringed at least one valid claim of the ‘797, ‘984, ‘510, or ‘065 Patents, then skip to the end and have the jury foreperson sign the form.**

**If you found infringement of at least one valid claim, then proceed to question 31 below:**

30. Which of the following Openet products do you find infringe one or more valid claim of the ‘797, ‘984, ‘510, or ‘065 Patents?

<b><u>Product</u></b>	<b>Infringed (Indicate by an “X.”)</b>	<b>Not infringed (Indicate by an “X.”)</b>
FusionWorks Framework	_____	_____
FusionWorks Mediation	_____	_____
Convergent Mediation	_____	_____
Convergent Charging	_____	_____
Network-Edge Rating	_____	_____
Balance Manager	_____	_____
Profile Manager	_____	_____
Policy Manager	_____	_____

## IV. DAMAGES

31. Did Amdocs prove by a preponderance of the evidence that its products were not amenable to marking?

**ANSWER: Circle**

“YES”

or

“NO”

(For Amdocs)

(For Openet)

32. If you answered “no” to Question 31, did Amdocs prove by a preponderance of evidence that it substantially complied with the requirement to mark its products with its patent numbers?<sup>5</sup>

**ANSWER: Circle**

“YES”

or

**“NO”**

(For Amdocs)

(For Openet)

If you answered “no” to Question 32, then you may only award damages for the post-complaint period – *i.e.*, August 16, 2010 to the present for the ‘797 and ‘065 patents and January 18, 2011 to the present for the ‘984 and ‘510 patents.

33. Did Amdocs prove by a preponderance of the evidence that its patented features are the basis for consumer demand for the Openet products that you found infringe one or more valid patent claims?

**ANSWER: Circle**

“YES”

or

“NO”

(For Amdocs)

34. **If you answered “no” to Question 33, what percentage of the overall product value of infringing Openet products, if any, did Amdocs prove by a preponderance of the evidence is attributable to its valid and infringed patent claims?**

(Enter a number between 0% and 100%).

<sup>5</sup> Openet has a pending motion *in limine* on marking and objects to instructing the jury on this issue.

35. Is your damages award a lump sum or running royalty?

**Check the box that applies:**

Lump sum       Running Royalty

**If you answered “lump sum” to Question 35, skip to Question 38. Otherwise, proceed to Question 36.**

36. If your damages award is a running royalty, what royalty base (i.e., the amount of alleged infringing sales) did you select?

**Answer with the amount: \$\_\_\_\_\_**

37. If your damages award was a running royalty, what royalty rate did you select?

**Answer with the percentage: \_\_\_%**

38. What sum of money, if paid now in cash, do you find from a preponderance of the evidence would fairly and reasonably compensate Plaintiff for Openet's infringement?

**Answer with the amount: \$\_\_\_\_\_**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
**JURY FOREPERSON**